

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

In re

BLOCKFI LENDING LLC,
Debtor

GEORGE J. GERRO,
Plaintiff

v.

BLOCKFI LENDING LLC,
Defendant

Appeal from the United States
Bankruptcy Court for the District of
New Jersey

Bankr. Case No. 22-19361 (MBK)

Chapter 11

D.N.J. Case No. 3:23-cv-18740-ZNQ

**NOTICE OF APPEAL (28 U.S.C.
§ 158(d)(1); Fed. R. App. P. 6(b);
Fed. R. App. P. Off'l Form 5)**

**NOTICE OF APPEAL TO UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

Plaintiff George Gerro respectfully appeals to the United States Court of Appeals for the Third Circuit, from the Letter Order of the District Court for the District of New Jersey, entered in this case on August 30, 2024 [ECF No. 11] affirming the Bankruptcy Court's order, dismissing Gerro's appeal, and ordering the clerk to administratively close this case.

The parties to the order appealed from and the names and addresses of their respective attorneys are as follows:

Plaintiff and Appellant George J. Gerro:

George J. Gerro, Esq. (Cal. Bar No. 325168)
530 S. Glenoaks Blvd., Suite 200
Burbank, CA 91502
(818) 840-0000
George@GerroLaw.com

Attorneys for Defendant and Appellee BlockFi Lending LLC, a Delaware
Limited Liability Company:

Daniel M. Stolz, Esq.
Donald W. Clarke, Esq.
GENOVA BURNS LLC
110 Allen Rd., Suite 304
Basking Ridge, NJ 07920
(973) 230-2095
DStolz@genovaburns.com
DClarke@genovaburns.com

Richard S. Kanowitz, Esq.
Lauren M. Sisson, Esq.
HAYNES AND BOONE, LLP
30 Rockefeller Plaza, 26th Floor
New York, New York 10112
(212) 659-7300
richard.kanowitz@haynesboone.com
lauren.sisson@haynesboone.com

Respectfully Submitted.

Dated September 3, 2024

Signed: /s/ George Gerro

George J. Gerro, Esq.
Appellant
530 S. Glenoaks Blvd., Suite 200
Burbank, CA 91502
(818) 845-3030

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

<i>In re</i>	Appeal from the United States Bankruptcy Court for the District of New Jersey
BLOCKFI LENDING LLC, Debtor	Bankr. Case No. 22-19361 (MBK)
<hr/>	
GEORGE J. GERRO, Plaintiff	Chapter 11
v.	D.N.J. Case No. 3:23-cv-18740-ZNQ
BLOCKFI LENDING LLC, Defendant	APPELLANT GEORGE J. GERRO’S STATEMENT OF ISSUES ON APPEAL TO THE THIRD CIRCUIT AND DESIGNATION OF RECORD (Fed. R. App. P. 6(b)(2)(B)(i))

STATEMENT OF ISSUES ON APPEAL:

1. What is the correct statutory construction of California

Financial Code section 22009: Whether the Bankruptcy Court misinterpreted California Financial Code section 22009, by holding that Debtor BlockFi Lending LLC (“BlockFi”), as a California “Finance Lender,” may retain pre-default use and possession of personal property securing its loan,

notwithstanding the statute's plain language limiting a security interest to "personal property, the use and possession of which property is retained by **other than** the mortgagee or lender." *Ibid.* (emphasis added).

2. **Do the proceeds from a borrower's loan collateral belong to the borrower:** Whether BlockFi violated the California Financing Law by charging, concealing, and converting the proceeds from Gerro's loan collateral to BlockFi's own use.
3. **What is the proper statutory remedy:** Whether BlockFi willfully violated the California Financing Law by persisting in an unreasonable interpretation of California Financial Code section 22009, even after BlockFi received *actual notice* from the State of California, in writing, that its practice of using and possessing loan collateral was prohibited.

4. Must a lender show that it sold loan collateral reasonably:

Whether the Bankruptcy Court failed to apply the proper burden of proof under California Commercial Code section 9626(b)(1)(A), which requires BlockFi to bear the “burden of proving compliance... relating to collection, enforcement, disposition, and acceptance” of Gerro’s loan collateral, since BlockFi failed to present any evidence that BlockFi disposed of Gerro’s collateral in a commercially reasonable manner.

5. Was a contractual right of redemption formed: Did Gerro accept BlockFi’s offer to “reverse” its purported liquidations of Gerro’s loan collateral?

DESIGNATION OF RECORD:

Pursuant to Fed. R. App. Proc., R. 6(b)(2)(B)(i), Gerro hereby redesignates the record previously assembled under Federal Rules of Bankruptcy Procedure rule 8009, by the United States Bankruptcy Court for the District of New Jersey – *In re BlockFi Inc., et al.*, Case

No.: 22-19361 (Jointly Administered with *in re BlockFi Lending LLC*,
Case No.: 22-19365):

	ECF	Docket	Date	Description
1.	17	11/28/2022		First Day Declaration of Mark Renzi
2.	834	05/04/2023		Ad Hoc Committee Response to Debtor's Motion to Honor BlockFi Wallet, etc. ("Wallet Motion")
3.	842	05/07/2023		Stipulated Facts
4.	853	05/09/2023		Transcript upon Hearing on Debtor's Wallet Motion
5.	1069	06/14/2023		BlockFi's Fourth Omnibus Objection to Certain Claims, including Gerro's Proof of Claim No. 12386
6.	1192	07/13/2023		Gerro's Response to BlockFi's Objection to his Claim
7.	1341	08/10/2023		BlockFi's Reply in Support of its Objection to Gerro's Claim
8.	1369	08/18/2023		Transcript of the Hearing on August 17, 2023 upon BlockFi's Objection to Gerro's Claim
9.	1420	08/29/2023		Memorandum Decision Disallowing Gerro's Claim
10.	1431	08/30/2023		Order Disallowing Gerro's Claim
11.	1453	09/07/2023		Notice of Appeal to the District Court

Appellant-Plaintiff Gerro further designates the following proceedings in the District Court *Gerro v. BlockFi Lending LLC (in re BlockFi Inc.)* Case No. 3:23-cv-18740-ZNQ:

ECF	Docket	Date	Description
12.	1		Notice of Appeal from Bankruptcy Court. Bankruptcy Court case number 22-19361-MBK, filed by George J. Gerro (“Gerro”).
		09/08/2023	
13.	1-1		Order being Appealed (Bankruptcy Court’s Order Granting Debtors’ Fourth Omnibus Objection to Certain Claims)
14.	1-2		Transmittal cover letter from Banker. Ct. Clerk to District Ct. Clerk
15.	3		Appellee-Defendant BlockFi Lending LLC’s (“BlockFi”) Counter-Designation of the Record
16.	3-1	10/11/2023	Transmittal cover letter from Banker. Ct. Clerk to District Ct. Clerk
17.	3-2		Appellant-Plaintiff Gerro’s Statement of Issues on Appeal and Designation of Items to be Included in the Record on Appeal.
18.	4		Letter to the Court Requesting Pre-Motion Conference
19.	4-1	10/26/2023	Brief of Appellant Gerro
20.	4-2		Appellant Gerro’s Appendix
21.	5	11/01/2023	Letter Order Denying Gerro’s Request for a pre-motion conference
22.	7	11/22/2023	BlockFi’s Response Brief
23.	9	12/06/2023	Appellant Gerro’s Reply Brief
24.	10	12/28/2023	Appellant Gerro’s Supplemental Authority (Fed. R. Banker. Proc. R.

8014(f))

25. 11 08/30/2024 Letter Order Dismissing Appeal

Respectfully Submitted.

Dated September 3, 2024

Signed: /s/ George Gerro

George J. Gerro, Esq.
Appellant
530 S. Glenoaks Blvd., Suite 200
Burbank, CA 91502
(818) 845-3030

CERTIFICATE OF FILING AND SERVICE

I certify that on this 3rd day of September 2024, the foregoing

APPELLANT GEORGE J. GERRO'S STATEMENT OF ISSUES ON APPEAL TO THE THIRD CIRCUIT AND DESIGNATION OF RECORD (Fed. R. App. P. 6(b)(2)(B)(i))

was filed with the Clerk of the United States District Court for the District of New Jersey, by email to ecfhelp@njd.uscourts.gov and served upon counsel for Appellee BlockFi Lending LLC by electronic transmission and by United States Postal Service First Class Mail:

Daniel M. Stolz, Esq. DStolz@genovaburns.com
Donald W. Clarke, Esq. DClarke@genovaburns.com
Genova Burns LLC
110 Allen Rd., Suite 304
Basking Ridge, NJ 07920

Richard S. Kanowitz, Esq., richard.kanowitz@haynesboone.com
Lauren M. Sisson, Esq. Lauren.Sisson@haynesboone.com
HAYNES AND BOONE, LLP
30 Rockefeller Plaza, 26th Floor
New York, NJ 10112

Dated: September 3, 2024

By: /s/ Jennifer Ayad
Jennifer Ayad